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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,289	02/20/2007	Doris Reich	3465	2835
278	7590	12/10/2008		
MICHAEL J. STRIKER 103 EAST NECK ROAD HUNTINGTON, NY 11743				
EXAMINER				
ROSE, ROBERT A				
ART UNIT		PAPER NUMBER		
3727				
MAIL DATE		DELIVERY MODE		
12/10/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/582,289

Applicant(s)

REICH ET AL.

Examiner

Robert Rose

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 4, lines 3-4 "the longitudinal sides" is without proper antecedent basis. In claim 6, line 4 it is unclear what is "a lateral longitudinal edge".

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 9-10, 12-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reich et al(US 6514131) in view of Stirr. Reich et al discloses an electric hand-held power tool with a machine housing having a dust-ejection opening, and a dust-collection container with a box and cover, connected thereto. While the dust-collection box is constructed to be removable from the machine housing for emptying, it would have been obvious in view of Stirr, to have constructed the dust-collection box as an integral portion of the machine housing, and formed the cover and filter section as a removable element for alternately emptying the dust from the unit, for convenience and to avoid misplacing the dust-collection box. With regard to claim 2, the specific shape of the dust-collection box is regarded as being one of obvious design

choice to those of ordinary skill in the art in the absence of a clear showing of criticality with respect to the particular shape recited. With regard to claim 17, the dust collection box in Reich et al is considered to form a portion of the handle, as it attaches to a lower section of the handle opening.

5. Claims 8, 11, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reich et al('131) in view of Park. Park discloses a power tool having a dust-collection box, with cylindrical shape and having corresponding shaped filter element. With regard to claim 8, to make the dust-collection box in the form of a cylinder, as taught by Park, to maximize the capacity of the filter element, would have been obvious to those of ordinary skill in the art. With regard to claim 15, to embody the filter element in Reich et al as a conventional pleated filter to maximize the area available for filtering, would have been obvious in view of Park.

6. Applicant's arguments filed July 28, 2008 have been fully considered but they are not persuasive. The dust-collection box in Reich et al is designed to be removable from the machine housing for emptying. However, Stirn teaches the expediency of forming the dust collection box integrally with the housing. It would have been obvious in view of Stirn, to have constructed the dust-collection box in Reich et al as an integral portion of the machine housing, and to have formed the cover and filter section as a removable element for alternately emptying the dust from the unit, for convenience and to avoid misplacing the dust-collection box. The specific shape of the dust-collection box is regarded as being one of obvious design choice to those of ordinary skill in the art, in the absence of a clear showing of criticality with respect to any particular shape recited.

With regard to claim 17, the dust collection box in Reich et al is considered to form a portion of the handle, as it attaches to a lower section of the handle opening. Applicant has submitted that the Valentini reference is not prior art, as it does not pre-date Applicant's Foreign Priority document. In view of Applicant's argument, the rejection under 35USC 103 relying upon Valentini has been withdrawn. However, Park is also deemed to suggest the use of a cylindrical filter element, and has been applied against these claims.

7. In view of the new grounds of rejection not necessitated by Applicant's response, this action is not made final.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Rose whose telephone number is (571) 272-4494. The examiner can normally be reached on Monday through Thursday, and on alternate Fridays, from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter, can be reached at (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the

Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Robert Rose/
Primary Examiner
Art Unit 3727

Rr

December 7, 2008.